

REMARKS

Reconsideration of the application as amended is respectfully requested.

Claims 51 and 54-57 are in the application. Claim 51 has been amended.

Support for the amendment can be found in Figure 5 of the application.

In the Official Action, the Examiner rejected claims 51 and 54-57 under 35 U.S.C. §102(b) as being anticipated by Ekenstam et al. (U.S. Patent No. 4,072,249). (N.B. Claim 58 is included in the Office Action, but was canceled in the Amendment of October 4, 2004). The Examiner alleged that all the limitations of the claims are present in Ekenstam et al.

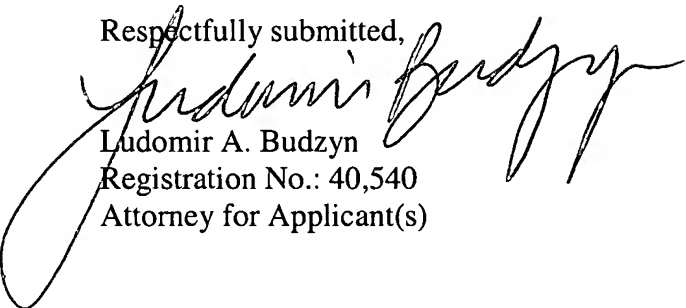
Ekenstam et al. is directed to a container for dispensing fluid which includes two similarly-shaped parts 1 and 2. As shown in the drawings, the parts can be dome-shaped, or can have other shapes. (Column 3, line 61 - column 4, line 8). Part 1 is made flexible to be compressed so as to take the shape of part 2 (Column 4, lines 32-34). Specifically, Ekenstam et al. states that "the wall of the dome-shaped part 1 is flexible [so] that it, to a lesser or greater extent, adjusts to the inside of the dome-shaped part 2." (Column 4, lines 35-37). Figure 2 shows the device in a compressed state, with Figure 6 being a cross-sectional view of Figure 2. (Column 2, lines 57-58). As shown clearly in Figure 6, interior portions of part 1 are in contact with the part 2.

Amended claim 51 is directed to a pump for dispensing fluid which includes a pump body; a fluid reservoir formed in the pump body; and, a deflectable diaphragm mounted in a wall of the pump body. Further, the diaphragm is deflectable from an initial position to a second, deflected position. In the deflected position, "said diaphragm extends into said pump with interior portions of said diaphragm being spaced from said pump body". In contrast to claim 51, Ekenstam et al. requires interior portions of the part 1 to contact, and not be spaced from, the part 2. With Ekenstam et al., compression of the part 1 provides pumping action with the reduction in volume of the encompassed reservoir. With the subject invention, the deflectable diaphragm reduces the volume of the reservoir to assist in priming, but is not necessary to conduct a pumping or dispensing action. Ekenstam et al. seeks to provide contact between the deflectable part 1 and the part 2 to ensure contents of the device are maximally dispensed therefrom. (Column 4, lines 61-65). Accordingly, there is no motivation to modify Ekenstam et al. to avoid contact between the two parts. It is respectfully submitted that claims 51 and 54-57 are patentable over Ekenstam et al.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ludomir A. Budzyn', is written over the typed name and registration information.

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